

Agenda Item	
A-1	No one wished to be heard during the Open Comment Period.
B-1	President John Hunziker called the meeting to order at 7:00 P.M. with the following members present: Councilmembers Marcia Marcoux, Jean McConnell, Sandra Means, Walter Stobaugh. Absent: Councilmembers Dennis Hanson and Bob Nowicki, Mayor Ardell F. Brede.
D-1-24	Councilmembers Stobaugh moved, Marcoux seconded, to approve the following consent agenda items.
D-1	Approved the minutes of the January 5, 2004, Council meeting.
D-2	Approved the appointment of Erik Westra to the Rochester Civic Music Board for the term expiring December 2006.
D-3	See at end of D Items.
D-4	See at end of D Items.
D-5	Approved a gas franchise for Aquila, Inc. for a ten-year period with the option to extend to another ten-year period and instructed the City Attorney to prepare the required ordinance for adoption.
D-6	Adopted Resolution No. 038-04 approving the agreement between the City of Rochester and the Rochester Airport Company for the spreading of biological solids from the Water Reclamation Plan on 1105.76 acres of Airport property.
D-7	<p>Approved the following licenses and miscellaneous activities.</p> <p><u>Gambling – Premise Renewal</u> Community Charities of Minnesota at: Recreation Lanes, 2810 North Broadway Pint's Pub, 530 11th Avenue NW</p> <p><u>Gambling – Temporary</u> Rochester Post Bulletin Charities – Raffle at Graham Arena – March 24 & 25, 2004.</p> <p><u>Miscellaneous Activities</u> Optimist Club of Rochester – Frozen Goose Relay – Eastwood Road and Golf Course – February 14, 2004 – 9:30-11:30 AM National Multiple Sclerosis Society – MS Walk – Soldiers Field – May 2, 2004 – 10 AM to 4 PM.</p>
D-8	Approved the change in ownership and location for Boomers Lounge LLC On-Sale Exclusive and Sunday Liquor Licenses from 1605 Civic Center Drive NW to 3737 40 th Avenue NW and ownership of Jennifer Mewhorter replacing Donald Janasak as co-owner with Bradley Button, pending all fees, insurance certificates and issuance of a certificate of occupancy.

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D-9	Approved the application of an Off-Sale Intoxicating Liquor License for Texano Liquor Store, Maria DeLourdes Salinas as owner, located at 325 South Broadway, pending all fees, insurance certificates and issuance of a certificate of occupancy.
D-10	Approved Accounts Payable in the amount of \$2,976,204.67 and Investment Purchases of \$7,990,599.90. President Hunziker abstained from voting on this item.
D-11	Approved the appointment of Christopher Bailey to the position of Motor Operator in the Rochester Fire Department effective January 22, 2004.
D-12	Adopted Resolution No. 039-04 approving Annexation Petition #03-22 by Joel Bigelow and Sons Enterprises, Inc. to annex 14 acres of land located along the south side of 41st Street N.W., along the east side of West Circle Drive NW and north of 40 th Avenue NW.
D-13	Adopted Resolution No. 040-04 approved the Wetland Delineation and Replacement Plan for the Penz-Orr Subdivision located south of 65 th Street NW and immediately west of US 52.
D-14	Adopted Resolution No. 041-04 approving Orderly Annexation #03-28 by Kenneth Schoenfelder to annex 26.10 acres of land in Marion Township located along the northeast side of Marion Road and the north side of 25 th Street S.E. and is the former Western Digital Site.
D-15	Adopted Resolution No. 042-04 approving Orderly Annexation #04-01 by Robert Eide to annex 2 acres of land located along the south side of TH14 east, east of the Knights of Columbus and west of the Hundred Acre Woods Subdivision.
D-16	Accepted the donation of a Kustom HR-5 Radar Unit to the Rochester Police Department, valued at \$1000, from IBM.
D-17	Adopted Resolution No. 043-04 approving Amendment #1 to the April 28, 1998, City-County Agreement for construction of five traffic signals as outlined in the Request for Council Action dated January 21, 2004.
D-18	Adopted Resolution No. 044-04 concurring with the Olmsted County Board's redesignation of a portion of CSAH 20 (St. Bridget Road).
D-19	Adopted Resolution No. 045-04 acknowledging the City's support, sponsorship and priority of the State Transportation Improvement Program (STIP) road projects for Federal Highway Funds for FY 2008 as outlined in the Request for Council Action dated January 21, 2004, authorizing the City Engineer to act on the City's behalf in filing and administering this application.
D-20	Adopted Resolution No. 046-04 approving a Professional Engineering Services Agreement with SRF Consulting to prepare the environmental documentation and

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	<p>preliminary engineering design services for Project No. J-7212 "TH52/65th Street Interchange".</p>
D-21	<p>Adopted Joint Resolution No. 047-04 approving the annexation of City-owned lands and the right of way of 55th Street in Cascade Township.</p>
D-22	<p>Adopted Joint Resolution No. 048-04 approving the annexation of City-owned lands and the right of way of Bandel Road and Overland Drive in Cascade Township.</p>
D-23	<p>Adopted Resolution No. 049-04 adding a future street segment along 41st Avenue NW and portions of 55th Street NW to the City's Municipal Aid System as defined in the Request for Council Action dated January 21, 2004.</p>
D-24	<p>Adopted Resolution No. 050-04 adding Bandel Road NW and Overland Drive NW to the City's Municipal Aid System as defined in the Request for Council Action dated January 21, 2004.</p> <p>Ayes (5), Nays (0). Motion carried.</p>
D-3	<p>Councilmember McConnell asked why the City is appointing a person from outside the City of Rochester and Olmsted County. He said that there should be qualified people within our own area to fill the position.</p> <p>Councilmembers McConnell moved, Marcoux seconded, to table action on the appointment of Jay Maier to the Committee on Urban Design and Environment (CUDE) for the term expiring March 2005 until further information is received from the Mayor. Ayes (5), Nays (0). Motion carried.</p>
D-4	<p>Councilmember Means wanted to thank the department heads for all their hard work for the City especially during the difficult budget times of recent.</p> <p>Councilmembers Means moved, Stobaugh seconded, to adopt Resolution No. 051-04 approving the 2004 compensation for department heads as recommended. Ayes (5), Nays (0). Motion carried.</p>
E-1	<p>A Continued Hearing on Zoning District Amendment #03-22 by COPAR Development to rezone from R-1 to B-4 and R-1x land located West of TH63, south of TH52 and Southtown Heights and north of 36th Street SW.</p> <p>Wishing to be heard was Kristi Clarke, McGhie & Betts, representing the developers. The project is a general development plan on approximately 117 acres. The Planning and Zoning Commission approved 94.14 acres for rezoning from R-1 to R-1x. The R-1x district allows for townhomes under a significantly tighter process. There are approximately 36 acres of open wetland space in which the Fen is located. There are two road right-of-ways of 66-feet and 50-feet coming from the frontage road access and two private connections, one to the south and one connecting to Willow Ridge Drive. Neighborhood meetings have been held to address concerns. Concerns are open space, buffer space along the western</p>

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and southern borders, types of buildings and their connections, and some environmentally sensitive issues.

President Hunziker opened the hearing on General Development Plan #219 to take testimony on both hearings at the same time.

Wishing to be heard was Jeff Broberg, Vice President of Environmental Services, McGhie & Betts. He stated that there are individuals who have lived in this area and enjoyed the amenities for many years. He said that the land in question has been through a number of potential development projects in the past that have been deemed not feasible for one reason or another. He worked on the project in 1999 when the sewer was proposed to serve Greystone. In 2001 a very special wetland was identified as a Fen. There has been a partnership with the Department of Natural Resources (DNR) for this unique area where plants and animals live as remnant of a glacial age in an undisturbed area. It's an area within a jurisdictional wetland where the boundaries have been identified within the site. The owners have pledged to cooperate and maintain Fen management plans. The developer is proposing this as an undisturbed outlot and hope it will grow to become a scientific and natural area for the DNR. Mr. Broberg said that they are in agreement with the conditions. Some of the storm water will be kept on site rather than falling into regional storm water ponds. Staying downhill from the Fen doesn't produce a risk for the Fen. It's the uphill activities that do and they have been adequately addressed. The downhill area shows some areas that need attention to keep the water in the Fen from leaking out faster. The gullies that have been formed are deteriorating this area and are part of what would be fixed in cooperation with the DNR. He said that the 30-year old private septic systems that are no longer used are dewatering the site producing new springs. Building style, spacing, and density are all taken very seriously because the project is on the downhill site. The EAW is in progress. If the General Development Plan is approved, there is a specific impact to evaluate. If the General Development Plan is not approved, there is no need to do an EAW. Mr. Broberg referred to a memorandum on the need of a sewer easement. He asked that the developer has until May 15, 2004, to make a decision of where the sewer line and easement should be placed. They would agree to May 15, 2004, as a condition. He noted agreement with the revision of the sixth condition and an added tenth condition on the revised Request for Council Action submitted at the meeting. There will be 15 units per acre. The site plans will be developed in pods or phases with up to 450 townhomes. Some of the landscape is amenable to walkouts but no basements. He noted that a larger buffer is being asked by the neighbors of Southtown Heights. The developer had offered to make the buffer as a part of the parkland.

Wishing to be heard was Tom Hanson, COPAR Development, Red Wing. This project is at a concept stage. The concept will allow them to take the next step of talking with neighbors, DNR and others who are interested in the environmental sensitivity of the site. The May 15th timetable will allow them to pursue the process and talk with the various authorities on how to best deal with the environmental issues, buffers, parkland, etc. In response to a question from Councilmember McConnell, Mr. Hanson said that COPAR is a new company but that he has had over 20 years of experience in land development in planning and financing and his

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partner has been in the building trades for over 30 years, both in residential and commercial building.

Wishing to be heard was Corey Bannerman, St. Louis Park. He owns the Barony Woods property. Final plat approval was given August of 2003. As a part of the final plat approval, a letter was sent to Brent Svenby by the owner of the property, Darrell Schriever. Mr. Schriever granted needed easements to the City for the extension of sanitary sewer in order to move the Barony Woods project along as quickly as possible. Mr. Bannerman asked that the Spring Brook Development move as quickly as possible as well as he is unable to do anything with his property until the Spring Brook Valley development is approved and utility easements established.

Mike Nigbur, Public Works Department, said that their main concern is that the easement is in place sometime in the near future. If the Council wishes to stay with 60 days or go with the May 15th date, it is their decision.

Wishing to be heard was Alexey Leontovich, 913 36th Street SW. He said that when the development was presented to Planning and Zoning, it passed by a slim margin because the land proposed for development is located on the Decorah Edge geological formation. Developers are well aware of the land phenomenon. There are two main opinions about the Decorah Edge. One, that it plays a key role in the City's water purification and quality. The filtration capacity is part of the economic structure of the City. Studies conducted by the University of Minnesota in 1998 of the Decorah Edge showed that mechanical filtration may cost \$5 million per year. The other opinion is from professionals in construction and development and it is that the first opinion is exaggerated. Only the second opinion was presented to Planning and Zoning. Some of the commissioners expressed concern that no one from Public Works or Public Utilities would express an opinion on the impact of water quality in Rochester. It was suggested that a moratorium be put on any building in the Decorah Edge until more is known and until the ordinances are enacted by the City and County for development in the Decorah Edge. Another problem is how safe it is to build on the Decorah Edge. The homeowners take the burden. Mr. Leontovich showed pictures of development on the Decorah Edge. He asked that more consideration of the problem be made before any action is taken which may include an independent firm studying the hydrology of the area.

Gary Neumann, Assistant City Administrator, said that a memorandum in the Council agenda packet from Phil Wheeler, Planning Department, addressed the Decorah Edge. The project meets all the land development ordinances currently in place and meets the requirements of County ordinance that is being proposed. This development does a good job in recognizing the Decorah Edge and the City is currently working on an amended ordinance in dealing with the topic.

Wishing to be heard was Jennifer Mann, 715 36th Street SW. She has lived at her present address for the past 14 years. She spoke on behalf of the residents living on the 36th and 33rd Street sides to convey some of the issues in regard to the development proposed. There were no plans to develop the property until April of 2001 and May of 2002. Those proposed developments were the result of the

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housing shortage in Rochester. There are now a large number of homes on the market so why the development at this time? In regards to the zone change proposed, the current residents on both sides of the property consider this to be a high-density development in such a environmentally-sensitive area. She said that usually high-density developments are to prevent urban sprawl and done in areas that are in close proximity for walking and biking to stores, shopping malls, etc. On the 36th Street side, there are four to five detached homes on an acre of land which is in very close proximity. The zoning change would allow for anywhere from 5.5 units per acre up to 15 units per acre; 9-12 is presently proposed. There was no buffering offered to the present homes. The previous proposal in 2002 planned for single-family homes next to the existing homes and then into an R-1x/R-2 zoning. Many of the residents were in favor of that. With the proposed R1x zoning, traffic will have a major impact. The present map does not show the existing access through the trailer court from Willow Ridge to 36th Street. Drivers presently use 36th Street as a short-cut to the trailer court. Speeding is an issue as the house on the corner of Willow Heights and 36th Street has been hit twice. Ms. Mann noted that construction vehicles would be using Willow Heights Drive to 36th Street to build the project and doesn't feel that it would be safe for the current residents of the area. Actual assessment of traffic numbers was taken from a previous assessment done by the developer. She asked that an actual traffic impact study be done by the City Traffic Department. Ms. Mann said that the final concern has to do with any development on this property due to the Decorah Edge. The City Comprehensive Plan has not been updated in over eight years and the County has no plan in place at this time. We do not know how environmentally messing around on the Decorah Edge will affect the City's water supply.

Wishing to be heard was Zachery Klaus, 504 33rd Street S.W. Mr. Klaus said that he grew up, has lived in the development for 45 years and has worked for Pollution Control for the past 12 years. Eight of those years he worked with sewer concerns where there were sewage lagoons and is aware of the affects if failure should occur. Mr. Klaus showed on the map where 33rd Street is in proximity to the beginning of Willow Heights and the slope of the land and then showed the slope of the land where the development is proposed. The slopes are very similar. A stairstep of at least 30 feet will be needed for each of the townhomes plus a 20-foot cut for a street. Instead of small 4-foot cuts going up the hill, there will be large cuts. When such large cuts are needed, all sediment and silt will be backed up in the flood areas of the creek. This is a highly erodable area. On the south side of the creek, there is a spring emerging in what was described as a very dry area. There are numerous springs all over the slope. A comment had been made earlier about a 30-foot set back on either side of the creek. He showed a picture showing the delineation marker (stake) not two feet from the edge of the stream. What is delineated and staked out on the site is not a 30-foot wetland on either side of the stream. It was mentioned that a lot of soil samples taken in the area; however, they were all related to the sewer system put through the site. There has been very limited soil sampling or surveying of that nature outside the sewer line. On the north side of the creek the soil is almost of a peat nature wet enough to support snails and salamanders. The sewer line, going up the hill, went through no less than six springs. It shows the disregard for the environment in that project. The downhill side of some of the development is almost on the creek in some places.

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The sewer line was put through a wetland. He pointed out where the sewer line was stubbed off there is now a spring that fills a 12-inch storm sewer culvert pipe year around. A lot of water has been drained from the creek. The wetland needs to be restored instead of letting it continue to drain down to the Decorah Edge. Mr. Klaus asked that the Council reject the proposed ordinance changes for something that is more environmentally sound that has less impact on the land instead of extensive grading.

Gary Neumann, Assistant City Administrator, noted that a memo from Phil Wheeler of the Planning Department, clarified for the staff some of the issues that have been raised and a letter, dated January 15, 2004, clarified the position of the DNR. He said that the DNR letter seems to say that they are more comfortable with the delineation than they were in the original letter from them dated January 5, 2004. The City has not independently clarified the consultant's delineation.

Wishing to be heard was Jeff Broberg, McGhie & Betts, for the developer. He said that the wetland delineation was completed by their staff. Delineation means defining a legal area, where the stakes are, but they are talking about providing a corridor wider than where the stakes are. There are some very real problems of dewatering where there are gullies and they want to correct those problems.

Wishing to be heard was Wendy Turri, 604 33rd Street S.W. She has worked in the area of water quality for the past 21 years. She noted that the proposed development has a lot of oak trees. She showed an area on the map where there has been a seep. During the sewer construction, fill was allowed to be put in and was to be leveled. It was never leveled and the seep has since disappeared. There has been a continuous discharge of water from the wetland since the sewer was put in. She showed pictures showing the eroding of the soil and the water running down the hill. Mr. Turri said that these are features of Decorah Edge. The site and soils are highly erodable. She asked that the area remain R-1, the project should be denied until the Decorah Edge ordinance is in place, that there be significant buffers between the development and the present R-1 developments and that rezoning be denied until the General Development Plan is completed.

Wishing to be heard was Tom Keel, 620 36th Street S.W. Mr. Keel said that he has been in the real estate business for the past 20 years. He said that most of the developments in the City have had problems. Many things arise when properties are being developed. Mr. Keel said that this is a complex area with a lot of unknowns. The developer has very little history to deal with the problems.

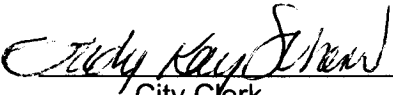
Wishing to be heard was Olga Leontovich, 913 36th Street S.W. She said that on the map there is an area that looks unpopulated and has no road. That is incorrect. There is a small private road that connects Willow Ridge Drive with 36th Street. All of this area is mobile homes. People will use the road as a short cut to 36th Street. When the developer's representative was talking about non-development in the steep area, the developed area is the same with many mature oak trees. All trees will be cut down to build houses. Density will be twice as great. Construction vehicles will be using the area as there are only two entrances; 36th Street or Willow Heights Drive. She asked that the EAW be completed prior to the General

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	<p>Development Plan and that the zoning not be changed from R-1 to R-1x. She asked an independent environmental agency or consultant be hired to do the EAW.</p> <p>Mitzi Baker, Planning Department, said that the applicant has asked for a number of extensions and have waived the 60-day rule. If the hearing is continued, staff can notify the developer of a 60-day extension. Ms. Baker noted that the conditions for an EAW apply to the General Development Plan not the zoning. The GDP provides security in the event that the EAW is negative. If the conditions cannot be met, the GDP would be void. Staff is asking that the approval for the GDP and the Zone Change be reversed with the GDP approved first. There are 10-foot buffers required between single-family homes and townhomes. The Council can look at additional buffering if they wish.</p> <p>In response to a question from Council on how much additional buffering could be provided, Jeff Broberg, McGhie & Betts, said that one of the key issues is where the road has to be based on geological issues. If it's moved farther south, we can offer more buffering.</p> <p>Wishing to be heard was Tom Hanson, COPAR Development, Red Wing. He said that it is his understanding that the neighbors and Council will have a say in what the buffers look like. When site plans are available to see where the buffers are, then those approvals can be obtained. He asked that the rezoning and GDP be approved so that the EAW can be done and start working on specific details where neighbors will be affected.</p> <p>Wishing to be heard was Jennifer Mann, 715 36th Street SW. She said that what the neighbors are asking for is single-family homes abutting single-family homes that already exist.</p> <p>Wishing to be heard was Olga Leontovich, 913 36th Street S.W. Ms. Leontovich said that at one of the last meetings with the developer it was suggested not to develop a portion of "A" on the map and put the single-family homes on the other side of "A".</p> <p>Councilmembers Stobaugh moved, McConnell seconded, to continue the hearings on Zoning District Amendment #03-22 and General Development Plan #219, to be known as Spring Brook Valley to February 2, 2004. Ayes (5), Nays (0). Motion carried.</p>
E-2	<p>A Continued Hearing on General Development Plan #219, to be known as Spring Brook Valley located West of TH63, south of TH52 and Southtown Heights and north of 36th Street SW.</p> <p>Testimony and continuing actions taken with Item E-1. Continued to February 2, 2004.</p>
E-3	<p>A Continued Hearing on Restricted Development Preliminary Plan #03-57 by Clint and Shelly Tagtow located at 1600 Marion Road S.E.</p>

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	<p>Wishing to be heard was Avery Tagtow, 3427 Lake Street N.W., representing the owners of the motel. He asked that Restricted Development Preliminary Plan #03-57 be withdrawn. The owners will be applying for a change in the zoning district.</p>
E-4	<p>A Hearing on Final Plat #03-46 to be known as Waters Subdivision by Ron Braasch/Kevin Swanson located along the north side of 7th Street SW, south of Schuster Lane NW and southwest of the DM&E railroad tracks.</p> <p>Wishing to be heard was Josh Johnson, McGhie & Betts, representing the developers. He said that they were in agreement with the conditions and the amendment to Condition #3 which stated "Prior to any site development plan approval and/or replatting, the applicant shall dedicate utility easements for the existing electrical distribution facilities, water main and fire hydrant existing on the property. Rochester Public Utilities shall approve the width of the easements."</p> <p>Councilmembers Means moved, Marcoux seconded, to adopt Resolution No. 052-04 approving Final Plat #03-46 to be known as Waters Subdivision by Ron Braasch/Kevin Swanson with five conditions including the amendment to Condition #3. Ayes (5), Nays (0). Motion carried.</p>
G-2a	<p>An Ordinance Creating and Enacting Chapter 92A to the Rochester Code of Ordinances, and Repealing Chapter 92 of the Rochester Code of Ordinances, Relating to a Gas Franchise, was given a first reading. (Aquila, Inc.)</p>
G-2b	<p>An Ordinance Establishing an Interim Zone District on Undeveloped Land Upon Its Annexation to the City of Rochester, and Amending Ordinance No. 2785, Known as the Zoning Ordinance and Land Development Manual of the City of Rochester, Minnesota, was given a first reading. (Annexation Petition #03-22 by Joel Bigelow and Sons Enterprises, Inc. - South side of 41st Street NW, East side of West Circle Drive, North of 40th Avenue NW)</p>
G-3a	<p>An Ordinance Creating and Enacting Chapter 19 of the Rochester Code of Ordinances, Relating to the City Advisory Committees, Boards and Commissions, was given a second reading. Councilmembers Marcoux moved, Stobaugh seconded, to adopt the Ordinance as read. Ayes (5), Nays (0). Motion carried.</p>
G-3b	<p>An Ordinance Rezoning Approximately .79 Acres of Property From the B-4 Zoning District to the B-1 Zoning District, and Amending Ordinance No. 2785, Known as the Zoning Ordinance and Land Development Manual of the City of Rochester, was given a second reading. Councilmembers Stobaugh moved, McConnell seconded, to adopt the Ordinance as read. Ayes (4), Nays (1). Motion carried.</p> <p>Councilmember Marcoux voted nay. (Zoning District Amendment #03-21 – South side of Eastwood Road S.E., East of Casey's General Store)</p>
G-3c	<p>An Ordinance Amending and Reenacting Chapter 38 of the Rochester Code of Ordinances, Relating to the Housing Code: Registration of Rental Units, was given a second reading. Councilmembers Marcoux moved, McConnell seconded, to adopt the Ordinance as read. Ayes (5), Nays (0). Motion carried.</p>

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G-3d	<p>An Ordinance Amending and Reenacting Chapter 34 of the Rochester Code of Ordinances, Relating to the Housing Code, was given a second reading. Councilmembers McConnell moved, Stobaugh seconded, to adopt the Ordinance as read. Ayes (5), Nays (0). Motion carried.</p>
J-1	<p>Having no further business, Councilmembers Marcoux moved, Stobaugh seconded, to adjourn the meeting. Ayes (5), Nays (0). Motion carried.</p>
	<p> _____ City Clerk</p>